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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In Re DYNAMIC RANDOM ACCESS
MEMORY (DRAM) ANTITRUST
LITIGATION

This Document Relates to:
ALL ACTIONS

Case No: M-02-1486-PJH

ORDER RE AUTHENTICITY OF DOCUMENTS AND BUSINESS RECORDS

15 By joint letter dated August 7, 2006, Direct Purchaser Class Plaintiffs, Indirect
16 Purchaser Plaintiffs and Defendants brought to the Court's attention a dispute concerning
17 the procedure to be used to establish the authenticity of documents, and their qualification
18 as business records under Federal Rule of Evidence 803, that may be used for dispositive
19 motions and at trial.¹⁴

This matter came on for hearing before the Honorable Joseph C. Spero, United States Magistrate Judge, on August 30, 2006. Bruce L. Simon, Guido Saveri and Cadio Zirpoli appeared for Direct Purchaser Class Plaintiffs; Josef D. Cooper appeared for the Indirect Purchaser Plaintiffs. Steven H. Bergman appeared on behalf of Settled Defendant Hynix, and Julian Brew appeared on behalf of Settled Defendant Infineon. Hynix, Infineon and Samsung are collectively “Settled Defendants”. Jon Swartz, Howard Mark Ullman, Joel S. Sanders, Mark E. Weber, Steven H. Morrissett, Andrea P. DeShazo,

28 This Order does not apply to the individual actions or actions brought by the Attorney
Generals who are excluded from the term "Direct Purchaser Class Plaintiffs" as used
herein.

1 Harrison J. Frahn, and Paul Griffin appeared for Defendants.

2 Having reviewed the papers on file and the oral arguments of all interested
3 counsel, the Court rules as follows:

4 1. Direct Purchaser Class Plaintiffs may proffer to Defendants up to 10,000
5 documents for stipulation regarding authenticity and business record qualification. Direct
6 Purchaser Class Plaintiffs must produce date-stamped copies of all proffered documents
7 to each Defendant by Friday, September 8, 2006. To the extent a document was
8 originally produced in electronic format, it must be provided electronically; CD is
9 preferable. If a document was produced in hard copy only, it may be provided by hard
10 copy.

11 2. The Defendants may proffer to Direct Purchaser Class Plaintiffs up to
12 10,000 documents for stipulation regarding authenticity and business record qualification.
13 Defendants must provide date-stamped copies of all proffered documents either
14 electronically or in hard copy by Friday, September 15, 2006, subject to the same
15 conditions expressed in paragraph 1. This is a cumulative number. The Defendants may
16 allocate their respective shares of that 10,000 documents as they choose.

17 3. By Monday, September 18, 2006, Defendants must identify which, if any,
18 of the Direct Purchaser Class Plaintiffs' proffered documents they are unwilling to
19 stipulate with respect to authenticity and/or business records qualification. The parties
20 must engage in a good faith meet-and-confer attempt by Friday, September 22, 2006. If
21 the parties are unable to resolve the dispute informally, Direct Purchaser Class Plaintiffs
22 will be entitled to take custodian-of-record depositions of Defendants for whom there is
23 no agreement, Settling Defendants and Third Parties between September 25, 2006 and
24 October 6, 2006 on shortened notice to accommodate this schedule. A response is
25 required from each Defendant to all documents proffered by Direct Purchaser Class
26 Plaintiffs, regardless of who produced the documents.

27 4. By Monday, September 25, 2006, Plaintiffs must identify which, if any, of
28 the Defendants' proffered documents they are unwilling to stipulate with respect to

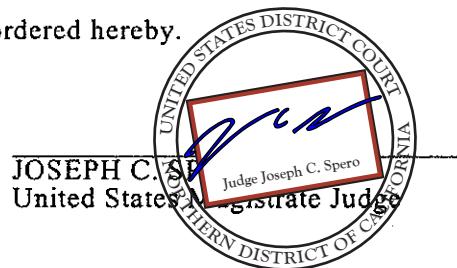
1 authenticity and/or business records qualification. The parties must engage in a good
2 faith meet-and confer attempt by Friday, September 29, 2006. If the parties are unable to
3 resolve the dispute informally, Defendants will be entitled to take custodian-of-record
4 depositions of other Defendants for whom there is no agreement, Settling Defendants and
5 Third Parties between October 2, 2006 and October 6, 2006 on shortened notice to
6 accommodate this schedule.

7 5. With respect to transactional documents, the parties are ordered to further
8 meet-and-confer. The parties shall submit a joint letter brief to the Court by September
9 15, 2006 if they have not been able to reach a stipulation by that date.

10 6. With respect to settled Defendants Infineon, Samsung and Hynix, they will
11 notify all counsel of their waiver of all objections to authentication or qualification as
12 business records to both Direct Purchaser Class Plaintiffs' and Defendants' proffered
13 documents for use in dispositive motions by the Direct Purchaser Class Plaintiffs, or at
14 trial, only in the Direct Purchaser Case. Any such waiver shall apply to the Direct
15 Purchaser Class Plaintiffs and Defendants in the Direct Purchaser case, but will not apply
16 to any other case. Absent written confirmation of this unconditional waiver, said Settling
17 Defendants must participate in the procedures ordered hereby.

18 IT IS SO ORDERED.

19 Dated: Sept. 1, 2006



20 APPROVED AS TO FORM:

21 THELEN REID & PRIEST LLP

22 By Paul R. Griffis
23 Paul R. Griffis
24 For All Defendants Except Samsung

COTCHETT, PITRE, SIMON &
McCARTHY

25 By BLS
26 Bruce L. Simon
27 For All Direct Purchaser Class
28 Plaintiffs

COOPER & KIRKHAM

27 By Josef D. Cooper / JDC
28 Josef D. Cooper
For All Indirect Purchaser Plaintiffs